IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 17657 of 2007(B)

PETITIONER:

K.R. KESAVAN, S/O. RAMAN,
KANGATH HOUSE, PUDUR POST, AGALI, PALAKKAD DIST.

BY ADV. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA

RESPONDENTS:

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1. THE DEPUTY DIRECTOR OF DAIRY DEVELOPMENT
CIVIL STATION, PALAKKAD.

2. PUDUR KSHEEROLPADAKA SAHAKARANA SANGHOM
LTD. NO.P 22(D), CHAVADIYUR POST, AGALI,
PALAKKAD DISTRICT, REPRESENTED BY ITS SECRETARY.

3. THE DIRECTOR OF BOARD OF PUDUR
KSHEEROLPADAKA SAHAKARANA SANGHAM LTD.NO.P 22(D),
CHAVADIYUR POST, AGALI, PALAKKAD DISTRICT,
REPRESENTED BY ITS PRESIDENT.

4. THE DISCIPLINARY COMMITTEE,
PUDUR KSHEEROLPADAKA SAHAKARANA SANGHAM LTD.
NO.P 22(D), CHAVADIYUR POST, AGALI, PALAKKAD DIST.
REPRESENTED BY ITS CHAIRMAN.

5. V. KANAKA RAJ,
PRESIDENT, PUDUR KSHEEROLPADAKA SAHAKARANA
SANGHAM LTD. P.NO.22(D), CHAVADIYUR POST, AGALI,
PALAKKAD DISTRICT.

BY ADV. SRI.LIJU. M.P (FOR R4)
SRI.SAJAN VARGHEESE K. (FOR R2 & R3)
SRI.M.N.SAJEER
GOVERNMENT PLEADER, SMT.M.K.PUSHPALATHA (FOR R1)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE ORDER DATED 4.9.2006 ISSUED BY THE 4TH RESPONDENT.

EXT. P2: COPY OF THE ORDER DATED 27.10.06 ISSUED BY THE 2ND RESPONDENT.

EXT. P3: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ON 1.11.2006 BEFORE THE 1ST RESPONDENT.

EXT. P4: COPY OF THE ORDER NO.C-2278/2006/K.DIS. DATED 31.1.2007 ISSUED BY THE 1ST RESPONDENT.

EXT. P5: COPY OF THE REPRESENTATION DATED 18.3.2007 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT. P6: COPY OF THE POSTAL ACKNOWLEDGEMENT CARD ACKNOWLEDGING EXT. P5 BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:

EXT. R1(A): COPY OF THE ORDER DATED 20.4.2007.

EXT. R3(A): COPY OF THE NOTICE DATED 17.10.2005 ISSUED BY THE PRESIDENT OF THE SANGHOM TO THE PETITIONER.

EXT. R3(B): COPY OF THE COMMUNICATION DATED 27.10.2005 ADDRESSED TO THE PETITIONER.

EXT. R3(C): COPY OF THE MEMO OF CHARGES SERVED ON THE PETITIONER.

EXT. R3(D): COPY OF THE COMMUNICATION DATED 20.2.2006 MADE BY THE SUB-COMMITTEE CHAIRMAN TO THE PETITIONER.

EXT. R3(E): COPY OF THE DEPOSITION MADE BY THE PETITIONER ON 4.3.2006 BEFORE THE SUB-COMMITTEE.

EXT. R3(F): COPY OF THE REQUEST DATED 7.3.2006 SUBMITTED BY THE PETITIONER BEFORE THE SUB-COMMITTEE.

EXT. R3(G): COPY OF THE NOTICE DATED 28.3.2006 ISSUED TO THE PETITIONER BY THE SUB-COMMITTEE.

EXT. R3(H): COPY OF THE NOTICE DATED 6.7.2006 SENT BY THE SUB-COMMITTEE TO THE PETITIONER.

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EXT. R3(I): COPY OF THE COMMUNICATION DATED 12.3.2007 MADE BY THE SANGHAM TO THE PETITIONER.

EXT. R3(J): COPY OF THE NOTICE DATED 16.3.2007 ISSUED TO THE PETITIONER.

EXT. R3(K): COPY OF THE POSTAL A/D CARD SIGNED BY THE PETITIONER ON RECEIPT OF EXT. R3(J).

EXT. R3(L): COPY OF THE EXPLANATION DATED 19.3.2007 SUBMITTED BY THE PETITIONER TO THE SANGHAM.

EXT. R3(M): COPY OF THE ORDER DATED 20.4.2007 PASSED BY THE RESPONDENT NO.1.

EXT. R3(N): COPY OF THE LETTER DATED 23.4.2007 SENT BY THE SANGHAM TO THE 1ST RESPONDENT.

EXT. R3(O): COPY OF THE COMMUNICATION DATED 24.4.2007 MADE TO THE PETITIONER.

EXT. R3(P): COPY OF THE POSTAL RECEIPT SIGNED BY THE PETITIONER ON RECEIPT OF EXT.R3(O).

EXT. R3(Q): COPY OF THE ORDER DATED 7.7.2007 PASSED BY THE RESPONDENT NO.1.

/TRUE COPY/

P.A. TO JUDGE

JP

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.17657 OF 2007

Dated this the 22nd day of November, 2007

JUDGMENT

The petitioner is an employee of the second respondent. Disciplinary proceedings reached the stage where a punishment was imposed on him. He carried an appeal. That appeal was decided by Ext.P4. The Deputy Director, exercising the powers of the Registrar of Co-operative Societies under the Kerala Co-operative Societies Act, 1969 concluded that the appeal ought to have been heard on merits and accordingly, vacated the appellate order.

2. On a reading of Ext.P4, it appeared to the petitioner that his punishment was revoked. He has, therefore, filed this writ petition seeking an order directing his reinstatement.

3. The Deputy Director has placed an affidavit on record, taking the stand that all that is meant by Ext.P4 is that the appeal should be heard again.

4. Though it could be a debatable issue as to whether the Registrar could have exercised powers under Rule 176 and rescinded the resolution in relation to a disciplinary matter in the wake of Section 69 of the KCS Act, all that the ends of justice require at this point of time is to ensure that the intra institutional appeal of the petitioner is heard. Ext.R3(q) shows that the committee then in office was superseded by the administrative committee. This means that the direction to re-hear the appeal has to be carried out by the administrative committee now in office.

5. In the result, de hors Ext.P4, it is ordered that the decision of the Board of Directors of the second respondent dismissing the appeal of the petitioner would stand set aside and that the appeal would be re-heard by the administrative committee now in office. A final decision shall be taken after affording the petitioner an opportunity of being heard within a period of two

months from the date of receipt of a copy of this judgment. All other issues are left open.

The writ petition is disposed of with the above direction. The Deputy Director will ensure that a copy of this judgment is communicated to the administrative committee appropriately.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.